

## **TRAVEL GUIDELINES FOR FACT WITNESSES, CJA ATTORNEYS AND EXPERT SERVICE PROVIDERS**

### **INTRODUCTION**

Travel costs and expenses reasonably incurred in providing representation under the Criminal Justice Act (CJA) may be claimed on the CJA 20 or 30 voucher form for attorneys and the CJA 21 or 31 voucher form for expert service providers. These costs and expenses must be itemized and documented with appropriate receipts.

An attorney or expert traveling as part of his or her representation under CJA is expected to exercise the same care in incurring expenses that a prudent person would exercise if traveling on personal business. Only those actual expenses that are essential to, and incurred in connection with, the representation under the CJA may be claimed.

These guidelines are not exclusive. While it is impossible to address all possible travel-related issues, these guidelines are intended to serve as a basic resource. For further guidance on travel and related issues, please refer to: *Chapter VI, Travel and Transportation, Volume I, Guide of Judiciary Policies and Procedures*; and the *Guidelines for the Administration of the Criminal Justice Act, Volume VII, Guide to Judiciary Policies and Procedures*.

### **I. FACT WITNESS TRAVEL**

Expenses related to the trial or deposition testimony of a fact witness, which includes witness fees, travel costs and related travel expenses, and expenses for service of a subpoena, are not paid out of the CJA appropriation. Instead, these expenses are paid by the Department of Justice through the United States Marshal Service (USMS) pursuant to Fed. R. Crim. P. 17 and 28 U.S.C. § 1825. An attorney appointed to represent a fact witness has the obligation to inform the witness on how to make travel arrangements and to obtain government transportation rates through the U.S. Marshal's Office when the witness is required to remain away from their residence overnight. A Fact Witness Voucher, Form OBD-3, must be prepared by the appointed attorney for each witness. For further details, see the USDC-NH website (CJA Panel Reference Manual, Section 10(h), Fact Witnesses).

## **II. ATTORNEY/EXPERT OVERNIGHT OR COMMON CARRIER TRAVEL**

All overnight travel and all travel by common carrier (air, bus, or train) must have advance judicial approval on an ***Ex Parte Motion for CJA Travel***. The motion should be filed with the court at least ten (10) calendar days prior to the proposed travel to allow time for processing. The attorney must state in the motion the purpose, itinerary, duration, estimated expenses for the trip, and any other arrangements must be detailed. See attached ***Suggested Elements for an Ex Parte Motion for Travel*** for suggested items for inclusion in the motion.

## **III. ATTORNEY/EXPERT ALLOWABLE TRANSPORTATION COSTS AND EXPENSES**

### **(A). Authorized Transportation Costs and Expenses**

Transportation expenses that may be claimed on the voucher include common carrier fares (airlines, railroad, buses), automobile rental fees including gasoline charges, mileage payments for use of privately-owned vehicle (POV), parking and any expenses incident to transportation such as the following: ferries, subways, transportation terminal limousines, taxis, baggage charges, business-related telephone charges, and food when on overnight travel. *There is no reimbursement for first class or business class travel expenses.*

### **(B). Authorized Methods of Transportation**

**(1) Common Carriers (Air, Train, & Bus):** Attorneys or experts will be reimbursed for transportation provided by a common carriers (air, train, bus) at the contracted government fare or the open market rate, whichever is lower. To determine the contracted government fare rate for a common carrier, appointed counsel can log onto [www.fedtravel.com](http://www.fedtravel.com). You should print the government fare rate as of the date you make your reservation and subsequently submit this documentation with your voucher.

The traveler should note that when booking a common carrier, special fares that involve penalties for changes or cancellation may be utilized provided that, to a high degree of certainty, no changes or cancellation will occur. Liability for costs for changes or cancellation over which the traveler had control will accrue to the traveler if a change or cancellation was due to personal preferences.

All reimbursement for use of a common carrier must be supported by travel tickets/boarding passes with the itinerary attached to the voucher showing departure and arrival times, as well as lay-over times. If using an e-ticket, the itinerary showing the e-ticket's designation must be attached to the voucher.

**(2) Car Rentals:** Reimbursement for rental cars will normally be limited to situations in which the use of shuttles, taxis, or public transportation is either unavailable, or, under all the facts and circumstances, is neither feasible nor economical. Travelers should exercise prudence in the selection of the least expensive rental vehicle necessary to adequately perform the official travel. The court will not reimburse Personal Accident Insurance (PAI) or Personal Effects Coverage (PEC) for rental automobiles. In addition, no reimbursement will be made for add-ons or upgrades when renting an automobile.

**(3) Privately-Owned Vehicle:** Use of a privately-owned vehicle for CJA case-related travel should be claimed at the mileage rate then in effect for the federal judiciary employees. For current mileage rates, see the USDC-NH website (CJA Panel Reference Manual, Section 1(h), Reimbursement Rates). The government will reimburse case-related tolls and parking fees if documented with receipts.

#### **(C). Reimbursable Travel Time**

Compensation will be approved for time spent for necessary and reasonable travel. Originally, allowable time for travel includes only those hours actually spent *in or awaiting transit*. Accordingly, if a trip necessarily and reasonably requires overnight lodging, compensable travel time to the destination from the claimant's office would terminate upon arrival and check-in at the hotel or other place of accommodation plus travel time returning directly to the claimant's office from said destination. However, since this unproductive travel time is foreseeable, every effort should be made to work on existing matters. All other compensation for time while in travel status will be paid only for actual services rendered. For further clarification on travel time, refer to the *Guide to Judiciary Policies and Procedures*, Volume VII, Chapter II ¶2.26.

#### **(D). Reimbursable Travel Expenses**

Travel expenses that will be reimbursed are confined to those actual expenses that are essential to, and incurred in connection with, representation under the CJA and supported by receipts. Per diem reimbursement is not allowable since the Act provides for reimbursement of expenses actually incurred.

When the travel period is 24 hours or less and no lodging is necessary, meals will not be reimbursed. During authorized overnight travel, reimbursement will be made for actual subsistence expenses, which includes all reasonable charges for meals (maximum three per day), lodging, all fees and tips to waiters, porters, and hotel maids. Other common authorized expenses include business-related telephone calls, airport and/or regular parking fees, taxi fares and tips to taxi drivers, ferries shuttles, subway, and toll fees.

In determining the reasonableness of travel expenses, the court will be guided by the prevailing per diem limitations placed upon federal judiciary employees for subsistence expenses (hotel, meals and tips). To determine the per diem rate for the travel destination, log onto [www.fedtravel.com](http://www.fedtravel.com). For point of reference, subsistence expenses must not exceed 150% of per diem. For further guidance in determining the reasonableness of such expenses, contact the court's CJA Coordinator.

#### **(E). Non-Reimbursable Travel Costs and Expenses**

The travel costs for spouses, other family members and friends is not allowable. In addition, the following expenses are not reimbursable: snacks, alcoholic beverages, entertainment (e.g., movies), travel insurance taken while traveling, parking fines or fees for traffic violations, personal automobile expenses, expenses incurred in traveling by indirect routes for personal reasons, and use of taxis to obtain meals. If a traveler lengthens a trip or incurs any cost for personal reasons, or performs work that is not related to the purpose of the official travel, the increased cost caused by such action is not reimbursable.

### **IV. ATTORNEY/EXPERT TRAVEL COST AND EXPENSE DOCUMENTATION**

#### **(A). Necessary Attachment to Voucher.**

Upon submission of the CJA 20, 21, 30 or 31 voucher that covers reimbursement for the period of the authorized trip, copies of the tickets, passenger receipt, and itinerary must be attached to the voucher showing departure and arrival times, as well as lay-over times. If using an e-ticket, the itinerary showing the e-ticket's designation must be attached to the voucher. Also attach a printout of the contracted government fare rate as of the date you made your reservation.

**(1). CJA Attorney Travel Time.**

Travel time is to be recorded in the Out-of-Court section of the CJA 20 Form, Item 16(d) or the Travel section of the CJA 30 Form, Item 15(i). On the *Out-of-Court Time Worksheet* (USDCNH-56C), travel time must include a description of the purpose of the travel and the points between which travel was made.

**(2). Experts and Investigators Travel Time.**

Travel time for experts and investigators should be claimed under compensation on the CJA 21 or 31, Item 16(a).

**(B). Receipts Required.**

With the exception of tolls, tips, and mileage calculations, receipts must be submitted for **all** travel as well as **all** subsistence expenses regardless of the amount. ***Credit card statements and billings alone are not acceptable.***

**(C). Worksheet.**

When submitting a voucher with trip expenses, use the *Travel Expense Worksheet*, USDCNH-56D, and organize expenses and receipts by date.